

Exhibit B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

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AGENCE FRANCE PRESSE,	:	
	:	
Plaintiff,	:	
	:	
- against -	:	
	:	
DANIEL MOREL,	:	
	:	
Defendant and	:	
Counterclaim-Plaintiff,	:	10 Civ. 2730 (AJN)(FM)
	:	
- against -	:	
	:	
AGENCE FRANCE PRESSE,	:	
	:	
Counterclaim-Defendant,	:	
	:	
- against -	:	
	:	
GETTY IMAGES (US), INC.; THE	:	
WASHINGTON POST COMPANY; and AFP and	:	
GETTY Licensees Does 1-et al.,	:	
	:	
Third-Party Defendants.	:	
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JOINT STIPULATIONS OF FACT

I. The Parties

(i) Daniel Morel

1. Daniel Morel ("Morel") is a professional photojournalist.

(i) Agence France Presse

2. Agence France Presse ("AFP") is an international wire service. Its headquarters are in Paris, France. AFP maintains an office in Washington, D.C.

3. AFP licenses and distributes photographs, text, video, and its other content through its wire service and through an online databank called Image Forum.

4. AFP distributes approximately 1,500 to 2,000 photos through its wire each day.

5. AFP's wire subscribers receive photos from an FTP (file transfer protocol) feed, referred to as the wire. AFP customers can also download individual photos from Image Forum as part of a subscription package.

6. Persons or entities can also purchase licenses on an "a la carte" basis from AFP, meaning independent of a subscription package.

(i) **Getty Images Inc.**

7. Getty Images Inc. ("Getty Images") is a digital media company incorporated in Delaware with its headquarters in Seattle, Washington.

8. Getty Images is in the business of creating and licensing content. It is one of the world's leading digital content providers, in the business of licensing, selling, and distributing photographic images, video, and music to customers worldwide.

9. Getty Images licenses content for a wide variety of uses, including use online, in websites, books, newspapers, magazines, television and film productions, advertisements, marketing materials, products and packaging.

10. Getty Images generates revenue from licensing the rights to use its content and content it licenses on behalf of third parties, including imagery, and from related services.

11. Getty Images offers various types of subscription packages, allowing customers to pay a fixed rate per month, quarter, or year for the ability to license and use a fixed number of photographs or, in some cases, unlimited photographs.

12. Some Getty Images subscription customers choose to receive images via an FTP feed (the Getty Images "feed").

13. Other Getty Images subscription customers download images from Getty Images' website as part of their subscription packages. No fee is tied to each download made under a

subscription package; subscribers pay a monthly, quarterly, or annual fee rather than paying a fee for each download.

14. Persons or entities may also purchase a license to a particular image from Getty Images' website "a la carte," meaning independent of a subscription package. Getty Images charges a fee for "a la carte" licenses.

15. Getty Images displays an informational booklet called "Copyright 101" on its website, at <http://gettyimages.tekgroup.com/images/59/Copyright101.pdf>. The document marked as Morel Trial Ex. 157 is a true and correct copy of the version of Copyright 101 that was in effect in 2010.

16. Getty Images' contributors and partners count on it to protect and maximize the value of their original works. Getty Images pursues infringements and unauthorized uses of its digital content in order to protect its own and its contributors' rights.

17. Getty Images issued an "Editorial Policy." The document marked as Morel Trial Ex. 161 is a true and correct copy of the version of the Editorial Policy that was in effect in 2010.

18. Getty Images issued an "Unauthorized Use" policy on November 8, 2008. The document marked as Morel Trial Ex. 155 is a true and correct copy of the version of the Unauthorized Use policy that was in effect in 2010.

II. Other Non-Party Entities

19. Corbis, Inc. ("Corbis") is a photo agency located in Seattle, Washington. Corbis is a competitor of Getty Images and AFP in the licensing of news photographs and rights-managed stock photography.

20. Twitter is an online microblogging service that enables users to send and read "tweets," which are text messages limited to 140 characters.

21. TwitPic is a photo sharing application for use in conjunction with Twitter.

TwitPic allows users to share photos and videos with other Twitter users.

III. AFP/Getty Images Relationship

22. For years, under a series of successive license agreements, AFP and Getty Images have granted each other rights to display and license their respective image collections in certain territories.

23. Typically, the AFP Washington Photo Desk, which is manned by one or more on-duty photo editors, receives photographs from a photographer in the field. The photographer takes the photographs and uploads them to the Washington Photo Desk by FTP or email. Included with each photograph is either a caption or sufficient information for a caption to be written by an AFP photo editor.

24. Once received, the photo editor at the Washington Photo Desk will either use the photographer's caption or adjust the caption material sent by the photographer to conform to AFP's style. The AFP photo editor may also make minor technical edits to the photographs, for example, color corrections, cropping, and the like. Then, AFP populates information fields that accompany the photographs, including, among others, the photographer, the date of creation, and the source of the photograph. Some of these information fields are populated in an automated fashion; others are populated by the AFP photo editor.

25. With respect to identifying the photographer, the AFP photo editor includes the name of the photographer and the photographer's status in the appropriate field. To identify the photographer's status, the AFP photo editor must choose from options in a limited pull-down menu, consisting of the following: correspondent, desk, handout, pool, staff, or stringer.

26. Then, the photographs are distributed to AFP's subscribers and to Getty Images through the agreed-to technology, *e.g.*, FTP, email, or satellite, as well as to AFP's archive and to Image Forum.

27. Once AFP transmits an image to Getty Images, it is processed through Getty Images' "back-end" system, the internal portion of Getty Images' computer system not visible to customers. Upon receipt of an image, the back-end computer system adds a standardized photo credit generated from the photographer name information provided by AFP.

28. After that modification, Getty Images' computer system then: (1) transmits the image via the feed to customers who have contracted to receive AFP content via the feed; and (2) passes the image through to a database called TEAMS, which runs data checks and then causes the image to be displayed on Getty Images' website for licensing by customers.

29. Once in TEAMS, if the photographer name does not match a TEAMS-recognized photographer name, the image is not automatically forwarded to the website without human intervention by either AFP or Getty Images.

IV. Time Zones

30. Greenwich Mean Time ("GMT") was five hours ahead of Eastern Standard Time ("EST") at all relevant times in this action. For example, if it is 6:00 p.m. in Greenwich Mean Time, it is 1:00 p.m. in Eastern Standard Time.

31. Haiti is located in the Eastern Standard Time zone.

V. The 2010 Haiti Earthquake

32. On the evening of January 12, 2010, at 4:54 p.m. EST, there was an earthquake in Haiti that registered 7.0 on the Richter scale.

33. There were aftershocks every 15 to 20 minutes, some of a magnitude of 4.0 or 5.0, and lasting 3 to 5 seconds throughout the night.

34. The earthquake resulted in the deaths of more than 222,000 people and the displacement of 2.3 million others.

35. Morel was in Port-au-Prince, Haiti when the earthquake struck.

36. Morel took photographs in the streets of Port-au-Prince depicting the aftermath of the earthquake.

VI. Morel Uploaded His Images to Twitter

37. On January 12, 2010, Morel uploaded fifteen of his photographs depicting the aftermath of the earthquake to TwitPic. AFP and Getty Images infringed Mr. Morel's copyright in eight of those photographs (the "Photos-at-Issue") by, among other things, distributing and licensing them without Mr. Morel's permission. The other seven photographs are not involved in this case.

38. The eight Photos-at-Issue in this case are as follows:

a. Morel uploaded the following image, identified by TwitPic as XVA6X ("Photo-at-Issue 1"), to his TwitPic account at 9:22 p.m. EST:



b. Morel uploaded the following image, identified by TwitPic as XVE5D (“Photo-at-Issue 2”), to his TwitPic account at 9:51 p.m. EST:



c. Morel uploaded the following image, identified by TwitPic as XVENO (“Photo-at-Issue 3”), to his TwitPic account at 9:55 p.m. EST:



d. Morel uploaded the following image, identified by TwitPic as XVFBN and XVFED (“Photo-at-Issue 4”), to his TwitPic account at 10:00 p.m. EST and again at 10:01 p.m. EST:



e. Morel uploaded the following image, identified by TwitPic as XVH3G (“Photo-at-Issue 5”), to his TwitPic account at 10:13 p.m. EST:



f. Morel uploaded the following image, identified by TwitPic as XVI3H (“Photo-at-Issue 6”), to his TwitPic account at 10:20 p.m. EST:



g. Morel uploaded the following image, identified by TwitPic as XVIX7 (“Photo-at-Issue 7”), to his TwitPic account at 10:26 p.m. EST:



h. Morel uploaded the following image, identified by TwitPic as XVJ75 (“Photo-at-Issue 8”), to his TwitPic account at 10:28 p.m. EST:



39. The eight images above are true and correct copies of the Photos-at-Issue.

40. Morel is the sole copyright owner of the Photos-at-Issue.

41. The copyright registration number for the photos is VA-701-374.

VII. Lisandro Suero Stole Morel's Photos

42. After Morel uploaded his photos to TwitPic on January 12, 2010, an individual in the Dominican Republic named Lisandro Suero downloaded twelve of Morel's photos from Morel's TwitPic page. Between 9:55 p.m. EST and 10:51 p.m. EST on January 12, 2010, Suero posted these twelve photographs on his own TwitPic page, without Morel's permission.

43. Morel Trial Ex. 141, numbered Twitpic001 through Twitpic026, is a true and correct copy of business records produced by TwitPic in this action.

VIII. AFP Obtained Morel's Photos

44. Vincent Amalvy ("Amalvy") is an employee of AFP.

45. In January 2010, Amalvy worked in AFP's Washington, D.C. office as AFP's Director of Photography for North and South America.

46. On January 12, 2010, Amalvy was searching the internet for photographs of the aftermath of the earthquake in Haiti.

47. Amalvy downloaded the eight Photos-at-Issue from the Internet.

48. Between 11:23 p.m. and 11:36 p.m. EST on January 12, 2010, Amalvy emailed the eight Photos-at-Issue to AFP's Photo Desk at wapix@afp.com or DOS-PUB-wapix@afp.com.

49. Upon receipt of the Photos-at-Issue from Amalvy between 11:23 p.m. and 11:36 p.m. EST on January 12, 2010, personnel at AFP's Photo Desk uploaded the Photos-at-Issue to AFP's website Image Forum and disseminated the Photos-at-Issue through the AFP wire. AFP credited the eight Photos-at-Issue to Suero.

50. AFP added "AFP" to the caption line affixed to the Photos-at-Issue.

51. On January 13, 2010, AFP transmitted the Photos-At-Issue, credited to Suero, to Getty Images' back-end system.

52. AFP transmitted five of the photos to Getty Images twice, so TEAMS assigned thirteen (13) unique identification numbers, called "asset IDs," to the photos.

53. Upon receipt, Getty Images added the following photo credit to the caption field of these photos: "(Photo credit should read LISANDRO SUERO/AFP/Getty Images)".

54. The Photos-at-Issue, credited to LISANDRO SUERO/AFP/Getty Images, went out over the feed to Getty Images' feed customers.

55. The Photos-at-Issue, credited to LISANDRO SUERO/AFP/Getty Images, also appeared on Getty Images' website, where customers licensed them.

IX. AFP's Caption Correction

56. On January 13, 2010, AFP issued a caption correction, which went out to Image Forum and to AFP and Getty Images wire subscribers, including Getty Images. AFP/Getty

Images Trial Ex. 256 is a true and correct copy of the caption correction issued by AFP on January 13, 2010. The caption correction stated:

CORRECTING BYLINE FOR FOLLOWING IMAGES
Dec050/052/053/054/055/056/057/058 showing the destruction in
Haiti following an earthquake measuring 7.8 in Port-au-Prince.
IMAGES SHOULD HAVE THE BYLINE OF DANIEL MOREL
AFP PHOTO.

57. On January 13, 2010, AFP changed the photographer credit from Suero to Morel for the Photos-at-Issue in its internal databases. AFP then posted the re-credited photographs to Image Forum and transmitted them on its wire and to Getty Images. When transmitted by AFP, the captions on all but one of the re-credited Photos-at-Issue included the following language: “EDITORS NOTE ----- CORRECTING NAME OF PHOTOGRAPHER” and “AFP PHOTO / DANIEL MOREL”. When transmitted by AFP, the caption on one of the re-credited Photos-at-Issue included the following language: “EDITORS NOTE ----- CORRECTING NAME OF PHOTOGRAPHER” and “AFP PHOTO / DAVID MOREL.”

58. AFP transmitted the re-credited photos to Getty Images several times, and as a result TEAMS assigned thirty-one unique identification numbers, called “asset IDs,” to the re-credited photos.

59. Upon receipt, Getty Images’ computer system added the following photo credit to the caption field of all but one of the re-credited photos: “(Photo credit should read DANIEL MOREL/AFP/Getty Images)”. For one photo (associated with five asset IDs), Getty Images’ computer system added the following photo credit: “(Photo credit should read DAVID MOREL/AFP/Getty Images).”

60. The Photos-at-Issue, credited to DANIEL MOREL/AFP/Getty Images or DAVID MOREL/AFP/Getty Images, went out over the feed to Getty Images’ feed customers.

61. The Photos-at-Issue, credited to DANIEL MOREL/AFP/Getty Images or DAVID MOREL/AFP/Getty Images, appeared on Getty Images' website, where customers licensed them.

X. AFP's Kill Notice

62. AFP/Getty Images Trial Ex. 257 is a true and correct copy of the kill notice issued by AFP on January 14, 2010. The kill notice stated:

== MANDATORY KILL == MANDATORY KILL == MANDATORY KILL ==
Due to a recent copyright issue, we kindly ask you to kill from all your systems
Daniel Morel pictures from Haiti. We are sorry for any inconvenience; thank you for
your cooperation.
== MANDATORY KILL == MANDATORY KILL == MANDATORY KILL ==.

XI. Miscellaneous

63. Getty Images entered into license agreements with each customer who downloaded the Photos-at-Issue. Each of these license agreements grants the customer non-exclusive rights to use certain licensed images, subject to various restrictions, and sets the applicable financial terms.

64. The exchange rate between U.S. Dollars and Euros for the relevant time period is 1 Euro = \$1.45.